



STATE OF DELAWARE  
**DEPARTMENT OF NATURAL RESOURCES AND  
ENVIRONMENTAL CONTROL**  
RICHARDSON & ROBBINS BUILDING  
89 KINGS HIGHWAY  
DOVER, DELAWARE 19901

OFFICE OF THE  
SECRETARY

PHONE  
(302) 739-9000

**NOTICE OF ADMINISTRATIVE PENALTY ASSESSMENT  
AND SECRETARY'S ORDER**

Pursuant to 7 *Del. C.* §§ 6005(b)(2) and (b)(3)

**Order No. 2023-WHS-0021**

***VIA CERTIFIED MAIL, RETURN RECEIPT***

**Issued To:**

Frank Bailey  
EHS Manager  
Datwyler Pharma Packaging USA, Inc.  
571 Merrimac Avenue  
Middletown, DE 19709

**Registered Agent:**

Dianne Green  
571 Merrimac Avenue  
Middletown, DE 19709

Dear Mr. Bailey:

The Secretary of the Department of Natural Resources and Environmental Control (“Department”) has found Datwyler Pharma Packaging USA, Inc. (“Respondent” or “Datwyler”) in violation of 7 *Del. C.* Chapters 60 and 63, and 7 DE Admin. Code § 1302, Delaware’s *Regulations Governing Hazardous Waste* (“DRGHW”). Accordingly, the Department is issuing this Notice of Administrative Penalty Assessment and Secretary’s Order (“Secretary’s Order”), pursuant to 7 *Del. C.* § 6005.

## BACKGROUND

Datwyler operates a pharmaceutical component manufacturing facility located at 571 Merrimac Avenue, Middletown, Delaware 19709 ("Facility"). During the operation of the Facility, Datwyler generates hazardous waste. As such, Respondent is subject to compliance inspections conducted by the Department's Compliance and Permitting Section ("CAPS"), pursuant to 7 DE Admin. Code § 1302.

On August 4, 2022, the Department conducted a compliance inspection of Respondent's Facility. At the time of the inspection, Respondent was classified as a Large Quantity Generator ("LQG")<sup>1</sup> of hazardous waste. The Facility is assigned EPA ID number DEN000504589. Based on the information gathered during the inspection, the Department found Respondent to be in violation of applicable state statutes and regulations governing the generation and management of hazardous waste.

The Department notified Respondent of the violations identified during the August 4, 2022, inspection by issuing to Respondent, Notice of Violation No. 22-HW-40 ("NOV") dated November 28, 2022. Respondent received the NOV on December 13, 2022. The NOV identified thirteen violations of DRGHW, two of which were corrected prior to the issuance of the NOV.

On December 21, 2022, Respondent submitted documentation to the Department in response to the NOV which addressed ten of the eleven outstanding violations cited in the NOV. Additionally, on January 6, 2023, Respondent submitted documentation to the Department addressing the one remaining violation cited in the NOV. Upon review of the submitted responses, the Department concluded that two of the thirteen cited violations in the NOV were nullified. The remaining eleven applicable violations are addressed in this Order.

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<sup>1</sup> Generators of more than 1,000 kilograms (2,200 pounds) of hazardous waste in any calendar month are Large Quantity Generators (Delaware's *Regulations Governing Hazardous Waste*, 2021).

## **FINDINGS OF FACT AND VIOLATION INCLUDING REGULATORY REQUIREMENTS**

**1. DRGHW Section 262.11 states:**

*“A person who generates a solid waste, as defined in §261.2, must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to these regulations. A hazardous waste determination is made by using the following steps:*

*(a) The hazardous waste determination for each solid waste must be made at the point of waste generation, before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste such that the hazardous waste classification of the waste may change.”*

On August 4, 2022, Department representatives observed fourteen (14) various containers ranging in size from 100mL to 500mL containing assorted chemical waste in the Lab Technical Hallway Central Accumulation Area (“CAA”)<sup>2</sup> and two (2) 5-gallon containers of discarded Citrol waste in the Silicone Alternative for Freon (“SAF”) Room CAA. Respondent had not made a hazardous waste determination of any of the observed chemical waste or the Citrol waste. Failure to make a hazardous waste determination at the point of generation is a violation of DRGHW Section 262.11.

On December 21, 2022, Respondent submitted documentation to the Department acknowledging the violation and understanding of DRGHW Section 262.11. Additionally, Respondent submitted documentation demonstrating hazardous waste determinations had been made on the observed containers. This violation has been corrected to the satisfaction of the Department.

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<sup>2</sup> As defined in Section 260.10 of DRGHW.

**2. DRGHW Section 262.17(a)(5)(i)(A) states:**

*“A large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of Parts 124, 264 through 266, and 122 of these regulations, or the notification requirements of 7 Del.C. §6304(a), provided that all of the following conditions for exemption are met:*

*(a) Accumulation. A large quantity generator accumulates hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in paragraphs (b) through (e) of this section. The following accumulation conditions also apply:...*

*(5) Labeling and marking of containers and tanks*

*(i) Containers. A large quantity generator must mark or label its containers with the following:*

*(A) The words ‘Hazardous Waste’;*”

On August 4, 2022, Department representatives observed CAA containers accumulating hazardous waste throughout the site that were not labeled with the phrase “Hazardous Waste.” Department representatives observed an unlabeled 5-gallon carboy<sup>3</sup> of waste Nessler reagent, an unlabeled 3-gallon carboy of waste potassium dichromate, and an unlabeled 1-gallon glass jug of waste dichloromethane in the Lab Technical Hallway CAA. Department representatives also observed six (6) unlabeled 15-gallon poly drums of waste acetone coating, two (2) unlabeled 5-gallon poly carboys of waste sodium hydroxide, an unlabeled 5-gallon poly carboy of waste acetone coating, and an unlabeled 3-gallon glass container of cyclohexane in the SAF Room CAA. Additionally, Department representatives observed six (6) unlabeled 55-gallon drums of waste coating solutions in the Drum Storage Area CAA. Failure to label a hazardous waste accumulation container placed in a CAA with the phrase “Hazardous Waste” is a violation of DRGHW Section 262.17(a)(5)(i)(A).

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<sup>3</sup> A carboy is a rigid plastic container with a narrow neck typically used to transport liquid, chemicals, or water.

On December 21, 2022, Respondent submitted documentation to the Department demonstrating that the above-described observed hazardous waste accumulation containers had been labeled with the phrase "Hazardous Waste." This violation has been corrected to the satisfaction of the Department.

**3. DRGHW Section 262.17(a)(5)(i)(C) states:**

*"(5) Labeling and marking of containers and tanks*

*(i) Containers. A large quantity generator must mark or label its containers with the following: ...*

*(C) The date upon which each period of accumulation begins clearly visible for inspection on each container."*

On August 4, 2022, Department representatives observed CAA containers accumulating hazardous waste throughout the site that were not marked with accumulation start dates. Department representatives observed a 5-gallon carboy of waste Nessler reagent, a 3-gallon carboy of waste potassium dichromate and a 1-gallon glass jug of waste dichloromethane with no marked accumulation start date in the Lab Technical Hallway CAA. Department representatives also observed six (6) 15-gallon poly drums of waste acetone coating, two (2) 5-gallon poly carboys of waste sodium hydroxide, a 5-gallon poly carboy of waste acetone coating, and a 3-gallon glass container of cyclohexane with no marked accumulation start date in the SAF Room CAA. Additionally, Department representatives observed six (6) 55-gallon drums of waste coating solutions with no marked accumulation start date in the Drum Storage Area CAA. Failure to mark an accumulation start date on a container placed in a CAA is a violation of DRGHW Section 262.17(a)(5)(i)(C).

On December 21, 2022, Respondent submitted documentation to the Department acknowledging the violation and demonstrating understanding of DRGHW Section 262.17(a)(5)(i)(C). Additionally, Respondent submitted documentation demonstrating the observed hazardous waste accumulation containers had been marked with accumulation start dates. This violation has been corrected to the satisfaction of the Department.

**4. DRGHW Section 262.17(a)(1)(vii)(B) states:**

*“(1) Accumulation of hazardous waste in containers. If the hazardous waste is placed in containers, the large quantity generator must comply with the following...*

*(vii) Special conditions for accumulation of ignitable and reactive wastes.*

*(B) The large quantity generator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including but not limited to the following: Open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the large quantity generator must confine smoking and open flame to specially designated locations. ‘No Smoking’ signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.”*

On August 4, 2022, Department representatives observed that all of Respondent's CAAs (Lab Technical Hallway, SAF Room, and Drum Storage Area) had “Reactive” (as defined in DRGHW Section 261.23) or “Ignitable” (as defined in DRGHW Section 261.21) waste present, but none had “No Smoking” signage posted. Failure to post “No Smoking” signage in a CAA where reactive or ignitable waste is accumulated is a violation of DRGHW Section 262.17(a)(1)(vii)(B).

On December 21, 2022, Respondent submitted documentation to the Department demonstrating “No Smoking” signage had been posted in all observed CAAs. This violation has been corrected to the satisfaction of the Department.

**5. DRGHW Section 279.22(c)(1) states:**

*“(c) Labels.*

*(1) Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words ‘Used Oil’.”*

On August 4, 2022, Department representatives observed four (4) 55-gallon drums of used oil in the Mixer Technical Area. None of the drums of used oil were labeled with the phrase “Used Oil.” Failure to label a container accumulating used oil with the phrase “Used Oil” is a violation of DRGHW Section 279.22(c)(1).

On December 21, 2022, Respondent submitted documentation to the Department demonstrating the observed used oil containers had been labeled with the phrase “Used Oil.” This violation has been corrected to the satisfaction of the Department.

6. **DRGHW Section 262.17(a)(1)(v) states:**

*“(v) Containment. In order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment is required. Spilled or leaked waste and accumulated precipitation must be removed immediately from the secondary containment system. Spilled or leaked waste and accumulated precipitation is subject to the hazardous waste determination requirements in §262.11. Secondary containment must be provided by one of the following methods:*

*(A) Accumulating containers inside a building with a base that underlies the containers and with walls or other curbing, all of which are free of cracks or gaps and is sufficiently impervious in order to contain leaks and spills until the collected material is detected and removed; DELAWARE HAZARDOUS WASTE REGULATIONS Part 262-16*

*(B) Accumulating containers in a secondary containment system designed and operated as follows:*

*(1) A base that underlies the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed;*

*(2) The base must be sloped or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;*

*(3) The containment system must have sufficient capacity to contain 10% of the total volume of all containers or the volume of the largest container, whichever is greater. Containers that do not contain free liquids need not be considered in this determination;*

*(4) Run-on into the containment system must be prevented unless the collection system has sufficient excess capacity in addition to that required in paragraph (a)(1)(v)(B)(3) of this section to contain any run-on which might enter the system.*

*(C) An equivalent method as approved by the Secretary.”*

On August 4, 2022, Department representatives observed Respondent's Drum Storage Area. This CAA is located outdoors and has a chain-link fence on three (3) sides. The floor of the CAA is unsealed concrete. Drums sit atop wooden or plastic pallets, but none of the pallets provide spill containment. Additionally, the area does not have a trench or curbing to prevent a release of hazardous waste from leaving the CAA. CAAs are required to have secondary containment. Failure to have secondary containment is a violation of DRGHW Section 262.17(a)(1)(v).

On December 21, 2022, Respondent submitted documentation to the Department demonstrating secondary containment was installed in the Drum Storage Area. This violation has been corrected to the satisfaction of the Department.

**7. DRGHW Section 262.40(a) states:**

*“(a) A generator must keep a copy of each manifest signed in accordance with §262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.”*

On August 4, 2022, Department representatives reviewed hazardous waste manifest records from August 4, 2019, to August 4, 2022, and determined that signed Treatment, Storage, or Disposal facility (TSDF) copies of manifests 013344961FLE, 013345000FLE, and 013344887FLE were not maintained by Respondent. Failure to maintain the TSDF copy of a hazardous waste manifest for a period of at least three (3) years is a violation of DRGHW Section 262.40(a).

On August 26, 2022, Respondent submitted TSDF signed copies of the aforementioned manifests to the Department. This violation has been corrected to the satisfaction of the Department.

**8. DRGHW Section 262.18(a) states:**

*“Section 262.18 EPA identification numbers and re-notification for small quantity generators and large quantity generators.*

*(a) A generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Secretary.”*

On August 4, 2022, Department representatives reviewed manifests 013932127FLE and 013344931FLE, and determined Respondent was operating as a Small Quantity Generator (SQG) of hazardous waste in December of 2020. As a SQG, Respondent was required to notify the Department in December of 2020 and obtain an EPA ID number. However, it was not until Respondent notified the Department as a LQG on March 30, 2021, that an EPA ID number was obtained. Failure to obtain an EPA ID number upon becoming an SQG in December of 2020, is a violation of DRGHW Section 262.18(a).

Since Respondent notified the Department on March 30, 2021, and obtained an EPA ID number, this violation has been corrected to the satisfaction of the Department.

**9. DRGHW Section 262.17(a) states:**

*“A large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of Parts 124, 264 through 266, and 122 of these regulations, or the notification requirements of 7 Del.C. §6304(a), provided that all of the following conditions for exemption are met:*

*(a) Accumulation. A large quantity generator accumulates hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in paragraphs (b) through (e) of this section. The following accumulation conditions also apply...”*

**DRGHW Section 122.1(c) states:**

*“(c) Scope of the hazardous waste permit requirement. DNREC requires a permit for the ‘treatment’, ‘storage’, and ‘disposal’ of any ‘hazardous waste’ as identified or listed in Part 261.”*

On August 4, 2022, Department representatives determined that Respondent, on multiple occasions, exceeded the 90-day accumulation time limit afforded to a LQG of hazardous waste. On June 14, 2021, Respondent shipped 6,985 pounds of hazardous waste from their facility to Cycle Chem Inc.’s TSDF in Lewisberry, PA for management (manifest 013344961FLE). Respondent’s next shipment did not occur until December 10, 2021, when 5,955 pounds of hazardous waste was shipped off-site (manifest 013345000FLE). Based on manifest dates, hazardous waste was accumulated on site for 180 days. The next shipment after December 10, 2021, did not occur until May 24, 2022, when Respondent shipped 5,240 pounds of hazardous waste (manifest 013344833FLE). Based on manifest dates, hazardous waste was accumulated for 166 days.

Furthermore, on August 26, 2022, Respondent provided a statement that a hazardous waste shipment was scheduled for September 9, 2022. While no manifest had been provided to demonstrate this shipment occurred on September 9, if the prior shipment of hazardous waste occurred on May 24, 2022, and the next shipment was not scheduled until September 9, 2022, then hazardous waste accumulated on-site for 109 days. Because Respondent exceeded the 90-day accumulation limit, Respondent is subject to the hazardous waste permitting requirements. Failure to obtain a permit for the storage of hazardous waste is a violation of DRGHW Section 122.1(c).

On December 21, 2022, Respondent submitted documentation to the Department acknowledging the violation and demonstrating an understanding of DRGHW Section 122.1(c). Additionally, Respondent provided copies of manifests 013344826FLE, dated September 9, 2022, and 013344760FLE, dated December 1, 2022, demonstrating hazardous waste has been properly shipped off-site. This violation has been corrected to the satisfaction of the Department.

**10. DRGHW Section 262.260 states:**

*“Section 262.260 Purpose and implementation of contingency plan.*

*(a) A large quantity generator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.*

*(b) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.”*

At the time of the August 4, 2022, inspection, Respondent could not provide a copy of the Facility's contingency plan as one had not been created. Failure to have a contingency plan designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water to be carried out immediately in the event of a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment is a violation of DRGHW Section 262.260.

On January 6, 2023, Respondent submitted a copy of the site's contingency plan, quick reference guide, and documentation demonstrating local emergency responders had received copies of the contingency plan and the quick reference guide. This violation has been corrected to the satisfaction of the Department.

**11. DRGHW Section 262.17(a)(1)(vi) states:**

*“(1) Accumulation of hazardous waste in containers. If the hazardous waste is placed in containers, the large quantity generator must comply with the following: ...*

*(vi) Inspections. At least weekly, the large quantity generator must inspect central accumulation areas. The large quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See paragraph (a)(1)(ii) of this section for remedial action required if deterioration or leaks are detected. A written record of the inspections and remedial actions taken, if necessary, must be maintained onsite for a minimum of 3 years.”*

At the time of the August 4, 2022 inspection, Respondent could not provide copies of weekly inspections of the site's three CAAs as inspections had not been conducted. Failure to perform weekly inspections and maintain documentation of same, is a violation of DRGHW Section 262.17(a)(1)(vi).

On December 21, 2022, Respondent submitted documentation to the Department acknowledging the violation as well as their plan for weekly inspections to be conducted going forward. Additionally, Respondent provided photographs of the weekly inspection logs being completed and maintained within the CAAs. This violation has been corrected to the satisfaction of the Department.

**CONCLUSIONS**

Based on the foregoing, the Department has concluded that Respondent has violated the above-cited statutory and regulatory provisions.

### **ASSESSMENT OF PENALTY**

Pursuant to 7 *Del. C.* § 6005(b)(3), the Secretary may impose an administrative penalty of not more than \$10,000.00 for each day of violation detailed in this Order. This Order is written notice to Respondent, that based upon its findings, the Department is assessing Respondent an administrative penalty for the violations identified in this Assessment and Order. In assessing the administrative penalty, 7 *Del. C.* § 6005(b)(3) instructs the Secretary to consider the following factors: (1) the nature, circumstances, extent, and gravity of each violation of the violation, or violations; (2) the ability of the violator to pay; (3) any prior history of such violations; (4) the degree of culpability; (5) the economic benefit or savings (if any) resulting from each violation; and (6) such other matters as justice may require. A brief discussion of these factors is set forth below.

**1. The Nature, Circumstances, Extent and Gravity of the Violation, or Violations:**

The nature, circumstances, extent, and gravity of the violations are significant. This Order identifies and describes eleven (11) regulatory violations. Failing to ensure compliance with the regulatory requirements for the management of hazardous waste, including making hazardous waste determinations, labeling and dating of containers accumulating hazardous waste, abiding by accumulation time limits, and maintenance of proper records are significant deviations from the statutory and regulatory requirements cited herein.

**2. Respondents' Ability to Pay:**

The record contains no information that Respondent lacks the ability to pay the administrative penalty assessed.

**3. Prior History of Violations:**

Respondent had not previously participated in a hazardous waste compliance inspection by the Department. Therefore, there is no known prior history of violations and thus, this was not a factor in the administrative penalty assessment.

**4. Degree of Culpability:**

The degree of culpability is significant. Had Respondent employed reasonable oversight measures as DRGHW require, these violations would not have occurred.

**5. Economic Benefit or Savings Resulting from the Violation(s):**

With respect to the economic benefit, the record contains no information that Respondent incurred any meaningful economic benefit from these violations, and thus this was not a factor in the administrative penalty assessment.

**6. Such Other Matters as Justice May Require:**

Lastly, considering such other matters as justice may require, the Secretary has determined that the penalty assessed is proportional to the violations cited herein and has been calculated to deter Respondent, and those similarly situated, from engaging in future violations.

Pursuant to *7 Del. C. § 6005(b)(3)*, this is written notice to Respondent that on the basis of the above findings and factors, an administrative penalty of \$10,000.00 is assessed for the violations identified in this Order.

Respondent shall submit one check to the Department in the amount of \$10,000.00 to pay the administrative penalty within 30 days from the receipt of this Assessment and Order. The check shall be made payable to the "State of Delaware" and shall be directed to: Leslie Reece, 89 Kings Hwy SW, Dover, DE 19901.

**PUBLIC HEARING AND APPEAL RIGHTS**

This Assessment and Order affects Respondent's legal rights and is effective and final upon receipt by Respondent. Pursuant to Section 6008 of Title 7 of the Delaware Code, any person whose interest is substantially affected by this action of the Secretary may appeal to the Environmental Appeals Board within **20 days** of the receipt of the Assessment and Order. In the alternative, Respondent may, pursuant to *7 Del. C. § 6005(b)(3)*, request a public hearing on the Assessment and Order within **30 days** of receipt of the Assessment and Order. A public hearing pursuant to *7 Del. C. § 6005(b)(3)* would be conducted pursuant to *7 Del. C. § 6006*, and the Secretary's order following the hearing would be subject to appeal, pursuant to *7 Del. C. § 6008*, by any person substantially affected.

**Respondent is further advised that the above assessed administrative penalty shall be due and owing within 30 days of Respondent's receipt of this Assessment and Order.** In the event of nonpayment of the administrative penalty assessed above, and after Respondent has exhausted all legal appeals, if any, a civil action may be brought by the Secretary in Superior Court for collection of the administrative penalty, including interest, attorneys' fees and costs, and the validity, amount and appropriateness of such administrative penalty and/or costs shall **not** be subject to review pursuant to *7 Del. C. §§ 6005(b)(3) and (c)*.

To request a public hearing pursuant to *7 Del. C. § 6005(b)(3)*, please submit your request, in writing, to:

Department of Natural Resources and Environmental Control  
Office of the Secretary  
89 Kings Highway  
Dover, DE 19901  
Telephone: (302) 739-9000

To submit an appeal to the Environmental Appeals Board pursuant to 7 *Del. C.* § 6008, you must file your written statement of appeal and submit a check, made payable to: "Environmental Appeals Board," for the \$50.00 filing fee, to:

Department of Natural Resources and Environmental Control  
Office of the Secretary  
Attn: Assistant to the Environmental Appeals Board  
89 Kings Highway  
Dover, DE 19901  
Telephone: (302) 739-9000

For additional information on filing an appeal with the Environmental Appeals Board and what information you must include in your written statement of appeal, please refer to the Environmental Appeals Board Regulations, codified at 7 DE Admin. Code § 105.

The Department, to the extent necessary, reserves the right to take additional enforcement actions regarding these and other violations by Respondent, including but not limited to one or more of the following: an action under 7 *Del. C.* § 6005(b)(1) seeking penalties for past violations, an action under 7 *Del. C.* § 6005(b)(2) seeking penalties for continuing violations, an action in the Court of Chancery pursuant to 7 *Del. C.* § 6005(b)(2) seeking a temporary restraining order or an injunction, and the imposition of civil penalties and recovery of the Department's costs and attorney's fees pursuant to 7 *Del. C.* §§ 6005(b)(3) & (c)(1). Nothing in this document shall be deemed to estop, or in any way preclude any additional enforcement action for these or any other violations, including administrative and civil penalties for each day of violation, or an action for the recovery of Department costs expended in abating these violations.

**SECRETARY'S ORDER FOR COST RECOVERY**

Pursuant to *7 Del. C. § 6005(c)*, Respondent is liable for all expenses incurred by the Department in abating the violations detailed in this Secretary's Order. "Such expenses shall include, but not be limited to, the costs of investigation, legal fees and assistance, public hearings, materials, equipment, human resources, contractual assistance and appropriate salary and overtime pay for all state employees involved in the effort notwithstanding merit system laws, regulations or rules to the contrary." (*7 Del. C. § 6005(c)(1)*).

Respondent is liable for \$4,171.40 in costs, which costs the Department has incurred **to date** in abating the violations detailed in this Secretary's Order. The Department has attached to this Secretary's Order a detailed billing of expenses detailing these costs. Respondent shall remit a check payable to the State of Delaware in the amount of \$4,171.40 within 30 days of receipt of this Secretary's Order, to Leslie Reece, 89 Kings Hwy SW, Dover, DE 19901.

In the event that Respondent appeals this Secretary's Order pursuant to *7 Del. C. § 6008* or requests a public hearing pursuant to *7 Del. C. § 6005(b)(3)*, or in the event Respondent fails to comply with this Secretary's Order, the Department will rescind the detailed billing attached to this Secretary's Order. The Department will issue Respondent a new detailed billing and Cost Recovery Order following exhaustion of Respondent's appeal rights that will include all additional recoverable costs incurred by the Department. Respondent is further advised that Respondent may challenge the Department's final detailed billing in accordance with *7 Del. C. § 6005(c)(2)*.

**PRE-PAYMENT**

Respondent may prepay the administrative penalty of \$10,000.00 and the Department's costs in the amount of \$4,171.40 in the manner described in the attached "**Waiver of Statutory Right to A Hearing.**" **By doing so, Respondent waives its right to a hearing and the opportunity to appeal or contest this Secretary's Order and the Department's Cost Recovery.**

If you have any questions, please contact, or have your attorney contact Travis Groski, Deputy Attorney General, at (302) 395-2521.

August 28, 2023

Date



For Shawn M. Garvin, Secretary

cc. Travis Groski, Esq., Deputy Attorney General  
Timothy Ratsep, Division Director

**WAIVER OF STATUTORY RIGHT TO A HEARING**

**Datwyler Pharma Packaging USA, Inc.** hereby waives its right to a public hearing and its opportunity to appeal or contest this Assessment and Order, and agree to the following:

1. **Datwyler Pharma Packaging USA, Inc.** will pay the administrative penalty in the amount of \$10,000.00 by sending a check payable to the "State of Delaware" within 30 days of receipt of this Assessment and Order. The check shall be directed to Leslie Reece, 89 Kings Hwy SW, Dover, DE 19901.
2. **Datwyler Pharma Packaging USA, Inc.** will pay the Department's Costs in the amount of \$4,171.40 by sending a check payable to the State of Delaware within 30 days of receipt of this Assessment and Order. The check shall be made payable to the "State of Delaware" and be directed to Leslie Reece, 89 Kings Hwy SW, Dover, DE 19901.

**Datwyler Pharma Packaging USA, Inc.**

Date: \_\_\_\_\_

By: \_\_\_\_\_

(Signature)

Title: \_\_\_\_\_

Name: \_\_\_\_\_

(Print)